



KAPLAN KIRSCH ROCKWELL

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April 2, 2013

Via Hand Delivery

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

ENTERED
Office of Proceedings

APR 2 - 2013

Part of
Public Record



Re *BNSF Railway Company - Abandonment Exemption - In King County,
Washington, Finance Docket No. AB-6 (Sub-No. 463X)*

Dear Ms. Brown

Pursuant to 49 C.F.R. 1152.29(I), King County, Washington ("County"), and the City of Redmond, Washington ("City"), respectfully submit this joint request to reopen the above-captioned proceeding, partially vacate the Notice of Interim Trail Use ("NITU") issued to County and to issue a replacement NITU substituting City for County as the interim trail sponsor for the portion of the corridor described below. Enclosed are an original and ten copies of the joint request. County and City intend to transfer responsibility for interim trail use on or before July 31, 2013.

This Board issued the current NITU to County in a Decision dated October 27, 2008, for a 7.30 mile segment of track known as the Redmond Spur, extending from MP 0.0 at Woodinville and extending to MP 7.3 in Redmond, all situated in King County, WA. City now wishes to assume responsibility as the interim trail user for the segment extending from MP 3.4 to MP 7.3, as shown on the map attached to City's SWAFR at Attachment A hereto. City acknowledges that interim trail use is subject to the possible reinstitution of freight rail service. County will remain the trail sponsor under its existing NITU for the segment of the Redmond Spur from MP 0.0 to MP 3.4.

A copy of the existing NITU is attached hereto as Attachment A.

A copy of City's statement of willingness to assume financial responsibility ("SWAFR") is attached hereto as Attachment B.

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Please do not hesitate to contact the undersigned if you have any questions.

Sincerely,



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W. Eric Pilsk
Allison I. Fultz
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Counsel for City of Redmond,
Washington

Enclosures

cc: All Parties of Record

ATTACHMENT A

Existing NITU

[attached hereto]

39427
DO

SERVICE DATE – LATE RELEASE OCTOBER 27, 2008

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-6 (Sub-No. 463X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN KING COUNTY, WA

Decided: October 27, 2008

BNSF Railway (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 7.30-mile rail line located between milepost 0.0 at Woodinville and milepost 7.30 at Redmond, King County, WA. Notice of the exemption was served and published in the Federal Register on September 26, 2008 (73 FR 55899).¹ The exemption is scheduled to become effective on October 28, 2008.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on October 3, 2008. In the EA, SEA recommends three conditions. First, SEA reports that the U.S. Environmental Protection Agency (EPA), Region 10, states that permits may be required under the Clean Water Act's National Pollution Discharge Elimination System (NPDES) to prevent or minimize the discharge of pollutants in storm water runoff from the disturbed areas to waters of the United States. EPA recommends that, prior to conducting any salvage activities along the line, BNSF be required to consult with the Washington Department of Ecology (WDE), to which the NPDES program has been delegated, regarding possible impacts of abandonment activities on wetlands located along the line and to ensure compliance with NPDES permitting requirements.

Second, SEA states that the U.S. Army Corps of Engineers (Corps) indicates that BNSF should establish the extent of floodplains and wetlands in the project area and determine if any such resources would be impacted by the proposed abandonment. According to the Corps, the project area contains wetlands and floodplains along the entire corridor and includes a crossing over the Sammamish River, a navigable waterway subject to Corps permitting requirements. Therefore, SEA recommends a condition requiring BNSF to consult with the Corps prior to conducting any salvage activities along the line regarding possible impacts of abandonment activities to water bodies and wetlands and to ensure compliance with Corps permitting requirements.

¹ By petition for exemption filed September 8, 2008, BNSF sought an exemption from the offer of financial assistance (OFA) requirements of 49 U.S.C. 10904. Because no notice of intent to file an OFA was submitted by the October 6, 2008 due date for such notices, the request for an exemption from the OFA provisions is moot and requires no Board action.

Finally, SEA states that the entire rail segment is eligible for listing in the National Register of Historic Places (National Register). This conclusion is based on the findings of a BNSF survey of the line in August 2007 to identify historic properties within the right-of-way. BNSF served its finding in an historic report on the Washington Department of History and Archaeology (SHPO). By letter, the SHPO replied to BNSF noting that the bridge at milepost 6.2 was almost entirely reconstructed following a 1980 arson investigation. Thus, SEA finds that the bridge no longer retains qualities that could make it eligible for listing under the National Register criteria. As the line may be eligible, SEA recommends that BNSF be required to retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or listed in the National Register until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).

Comments to the EA were due by October 20, 2008. No comments were filed. Accordingly, the environmental conditions recommended by SEA in the EA will be imposed.

On September 18, 2008, King County, WA (King County) filed a request for issuance of a notice of interim trail use (NITU) under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and 49 CFR 1152.29, to enable it to negotiate with BNSF for use of the line for interim trail use. King County has submitted a statement of willingness to assume full financial responsibility for the management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for payment of any and all taxes that may be levied or assessed against, the right-of-way, as required at 49 CFR 1152.29, and acknowledged that the use of the right-of-way for trail purposes is subject to future reactivation for rail service. By letter filed with the Board on October 24, 2008, BNSF states that it supports the issuance of a NITU.

Because King County's request complies with the requirements of 49 CFR 1152.29 and BNSF is willing to negotiate for trail use, a NITU will be issued. The parties may negotiate an agreement during the 180-day period prescribed below. If the parties reach a mutually acceptable final agreement, no further Board action is necessary. If no agreement is reached within 180 days, BNSF may fully abandon the line subject to any outstanding conditions. See 49 CFR 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to restoration for railroad purposes. See 49 CFR 1152.29(d)(2).

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on September 26, 2008, exempting the abandonment of the line described above is subject to the

conditions that BNSF shall: (1) prior to beginning salvage activities, (a) consult with WDE regarding possible impacts of abandonment activities on wetlands located along the line and to ensure compliance with NPDES permitting requirements and, (b) consult with the Corps regarding possible impacts of abandonment activities to water bodies and wetlands, and to ensure compliance with Corps permitting requirements; and (2) retain its interest in and take no steps to alter the historic integrity of all historic properties, including sites, buildings, structures, and objects within the proposed abandonment's right-of-way that are eligible for listing or are listed in the National Register until the section 106 process has been completed. report back to SEA regarding any consultations with the SHPO or the public regarding this matter, and be prohibited from filing a consummation notice or initiating any salvage activities until the section 106 process has been completed and the Board has removed this condition. Also, the notice of exemption is modified to the extent necessary to implement interim trail use/rail banking as set forth below to permit King County to negotiate with BNSF for trail use of the subject line, for a period of 180 days commencing from the service date of this decision and notice (until April 25, 2009).

3. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way.

4. Interim trail use/rail banking is subject to the future restoration of rail service and to the user's continuing to meet the financial obligations for the right-of-way.

5. If interim trail use is implemented, and subsequently the user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

6. If an agreement for interim trail use/rail banking is reached by April 25, 2009, interim trail use may be implemented. If no agreement is reached by that time, BNSF may fully abandon the line, provided the other conditions imposed in this proceeding are met. See 49 CFR 1152.29(d)(1).

7. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings

Anne K. Quinlan
Acting Secretary

ATTACHMENT B

City of Redmond – Statement of Willingness to Assume Financial Responsibility

[attached hereto]

Before the Surface Transportation Board

STB Docket No. AB-6 (Sub-No. 463X)

**BNSF Railway Company
Abandonment Exemption in King County, WA
(Redmond Spur Milepost 0.00 to Milepost 7.30)**

**Request of City of Redmond, Washington
For Interim Trail Use Pursuant to 49 CFR 1152.29**

Pursuant to 49 C.F.R. §1152.29, the City of Redmond, Washington, a body corporate and politic of the State of Washington, hereby requests issuance of a Notice of Interim Trail Use with respect to a portion of the line segment that is the subject of this proceeding. In accordance with the applicable regulations, the City of Redmond submits the following Statement of Willingness to Assume Financial Responsibility and other information:

Statement of Willingness to Assume Financial Responsibility:

In order to continue established interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29 with respect to the right-of-way formerly owned by the BNSF Railway Co. and operated by the BNSF Railway Co., the City of Redmond, a body corporate and politic of the State of Washington, is willing to assume full responsibility for: (1) Managing the right of way, (2) any legal liability arising out of the transfer or use of the right-of-way (unless the sponsor is immune from liability, in which case it need only indemnify the railroad against any potential liability), and (3) the payment of any and all taxes that may be levied or assessed against the right-of-way. The property, known as a portion of the Redmond Spur, extends from railroad milepost roughly 3.4 near St. Michelle Vintners, WA, Station No. 65802, to railroad milepost

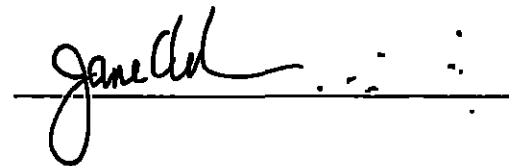
roughly 7.3, near Redmond, WA, Station No. 65807. a distance of roughly 3.9 miles in King County, Washington The right-of-way is part of a line of railroad previously proposed and approved for abandonment in Docket No. STB AB-6 (Sub-No 463X).

Other required information:

An overall map of the property and detailed plat diagrams depicting the right-of-way are attached

The City of Redmond acknowledges that use of the right-of-way is subject to the sponsor's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service A copy of this statement is being served on the railroad(s) on the same date it is being served on the Board

Respectfully submitted,

A handwritten signature, appearing to read "Jane Ald", is written over a horizontal line.

Dated:

Portion of Redmond Spur -- Redmond SWAFR



© 2008 King County

Legend

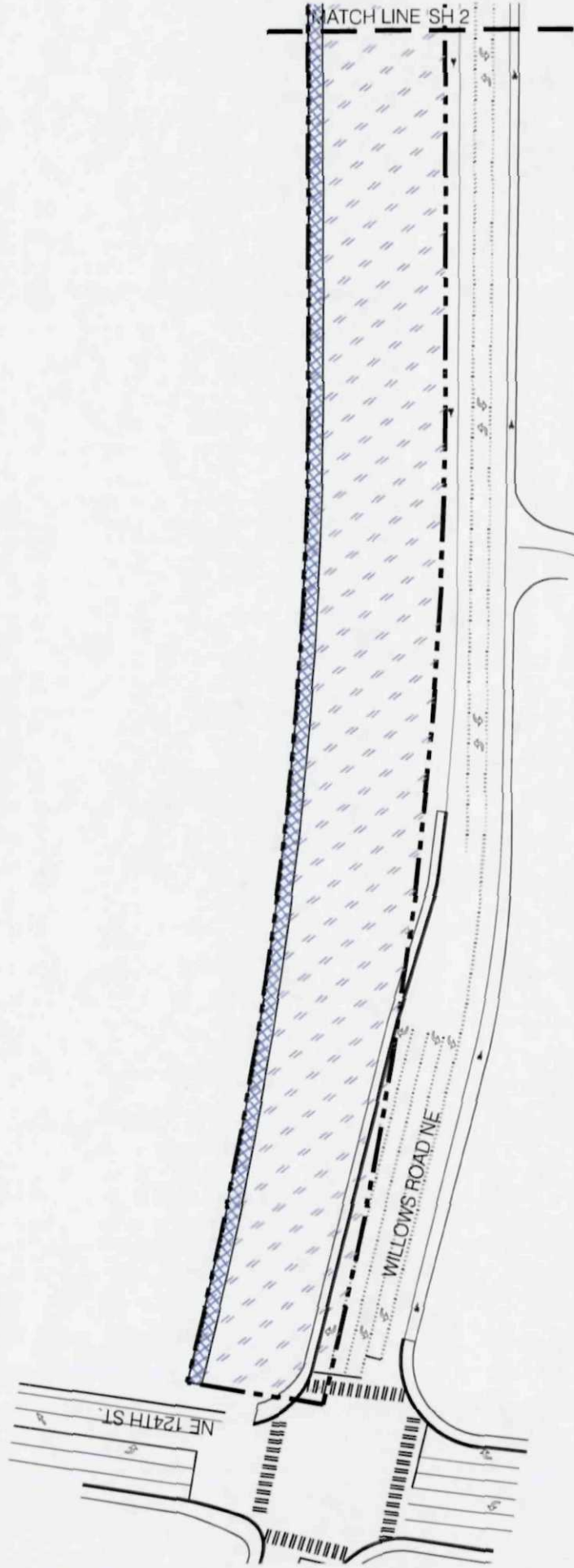
- | | |
|-------------------|------------------------|
| County Boundary | Highway |
| Mountain Peaks | Arterials |
| Highways | Local |
| Incorporated Area | Lakes and Large Rivers |
| Streets | Streams |
| (cont) | |

COMMENTS: This diagram is for illustrative purposes only. It is not a survey. A complete legal description of the affected segment is on file with the STB. If there is any conflict between this illustration and the legal description on file, the legal description shall control.

The information included on this map has been compiled by King County staff from a variety of sources and is subject to change without notice. King County makes no representations or warranties, express or implied, as to accuracy, completeness, timeliness, or rights to the use of such information. This document is not intended for use as a survey product. King County shall not be liable for any general, special, indirect, incidental, or consequential damages including, but not limited to, lost revenues or lost profits resulting from the use or misuse of the information contained on this map. Any sale of this map or information on this map is prohibited except by written permission of King County.

Date: 2/8/2013 Source: King County IMA - Property Information (<http://www.metrokc.gov/GIS/IMA/>)

King County

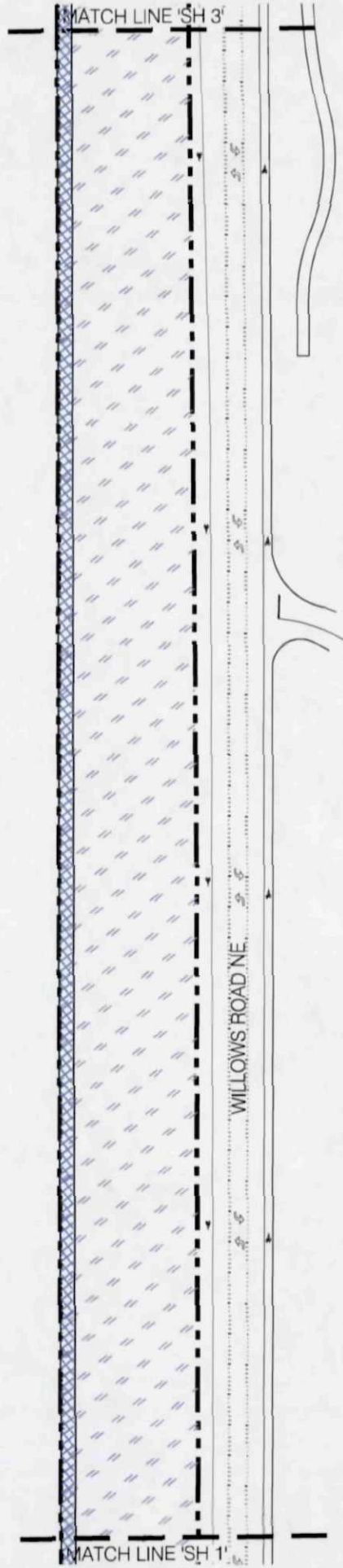


CITY OF REDMOND

EXHIBIT C - MAP OF DOWNTOWN CITY SEGMENT, DOWNTOWN TRANSIT CORRIDOR, CITY IMPROVEMENTS AND KING COUNTY EASEMENT AREA

- LEGEND**
- BNSF ROW
 - SOUND TRANSIT NORTH CORRIDOR EASEMENT AREA
 - ▨ KING COUNTY UTILITY EASEMENT
 - * REDMOND TO CONSTRUCT A REGIONAL TRAIL IN NORTHERN CORRIDOR BY 2025, LOCATION TO BE DETERMINED.



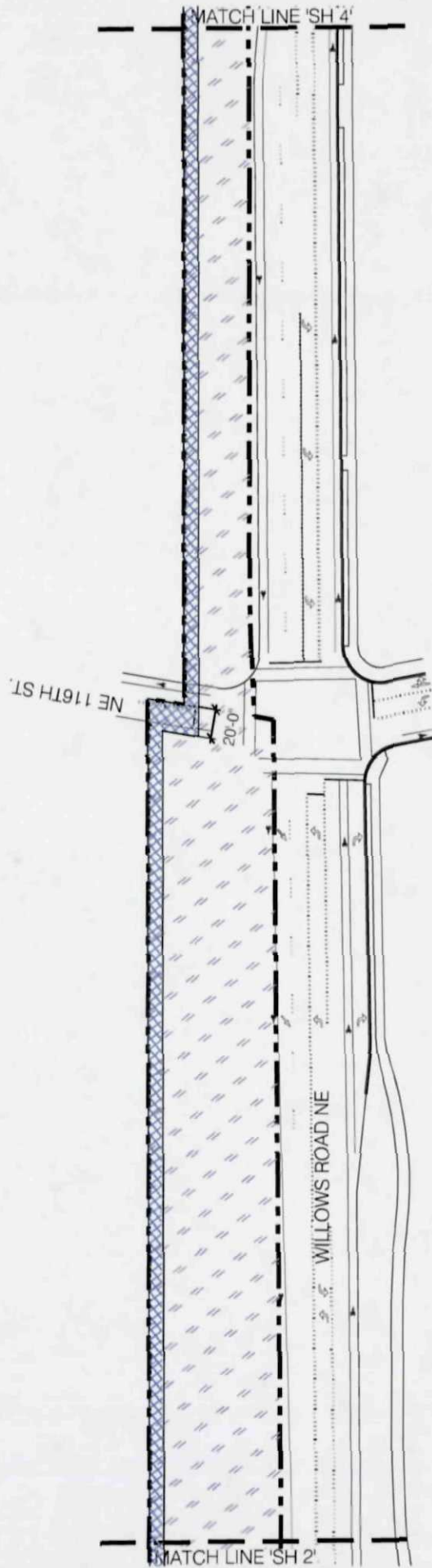


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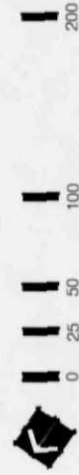


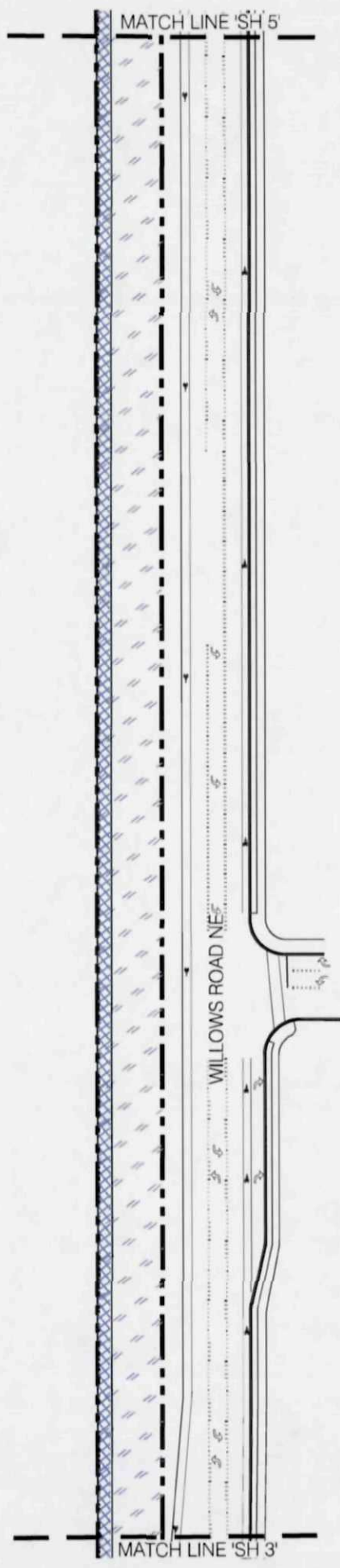


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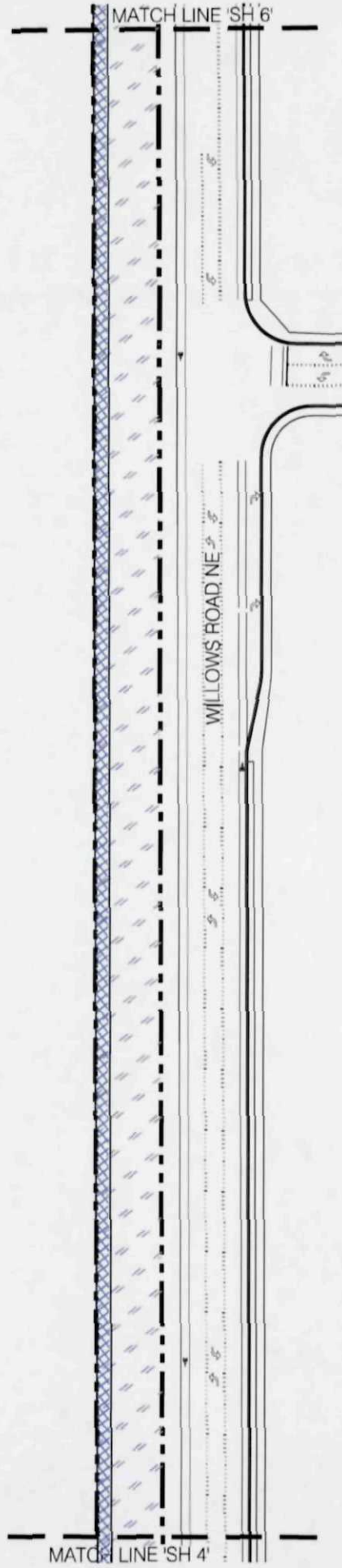


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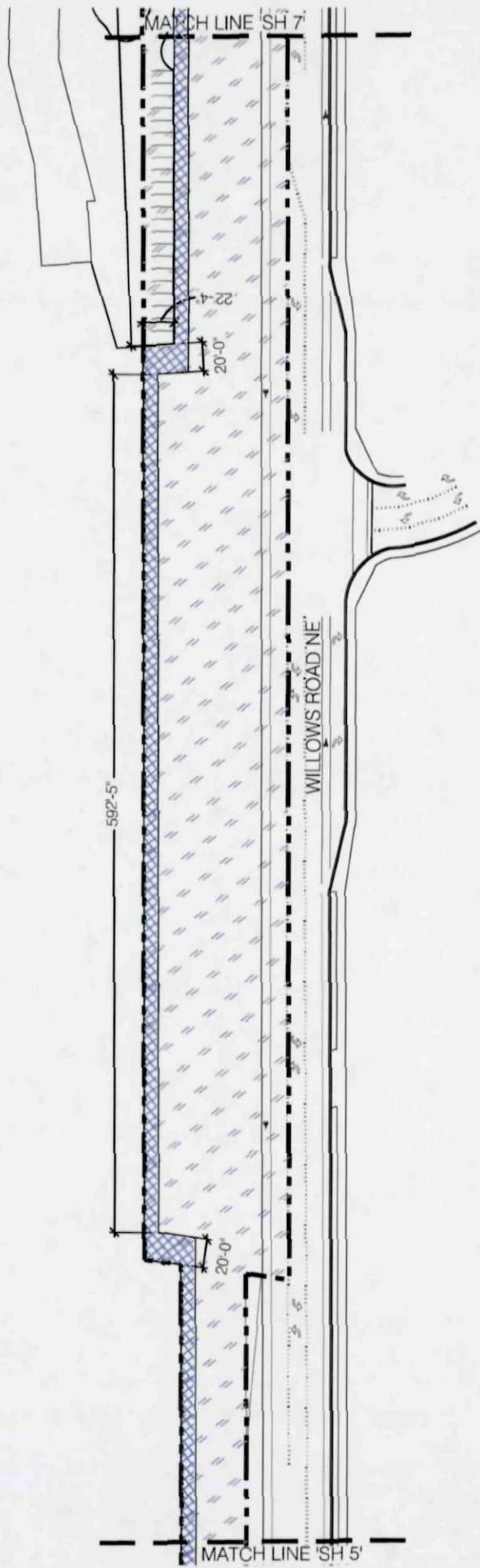


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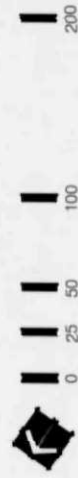


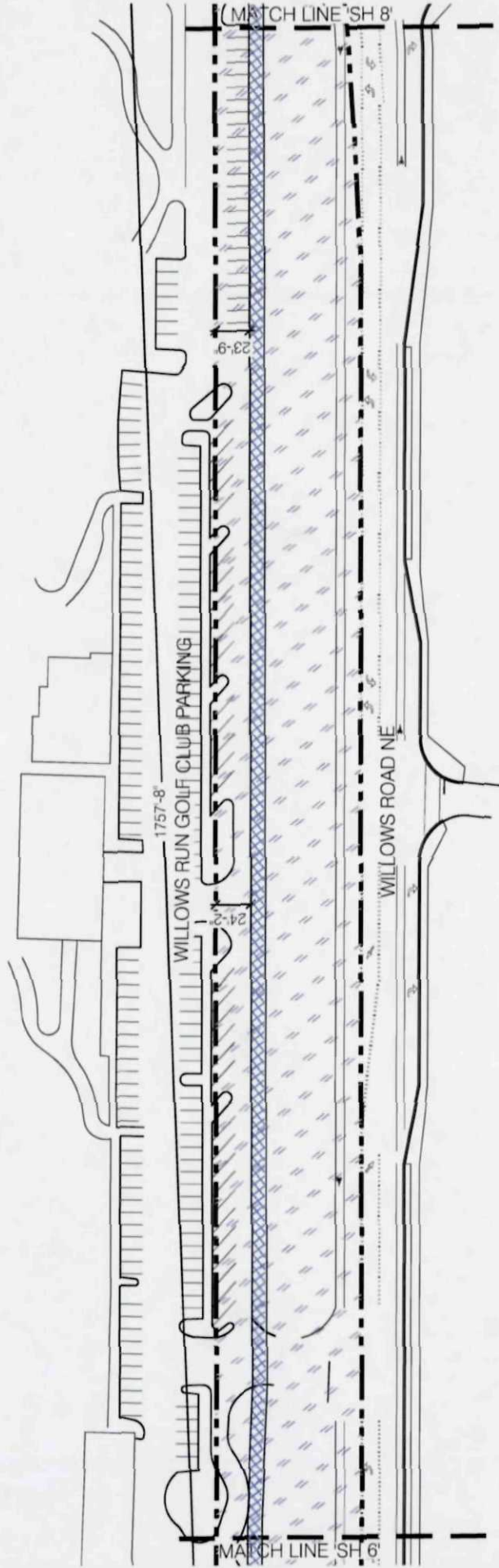


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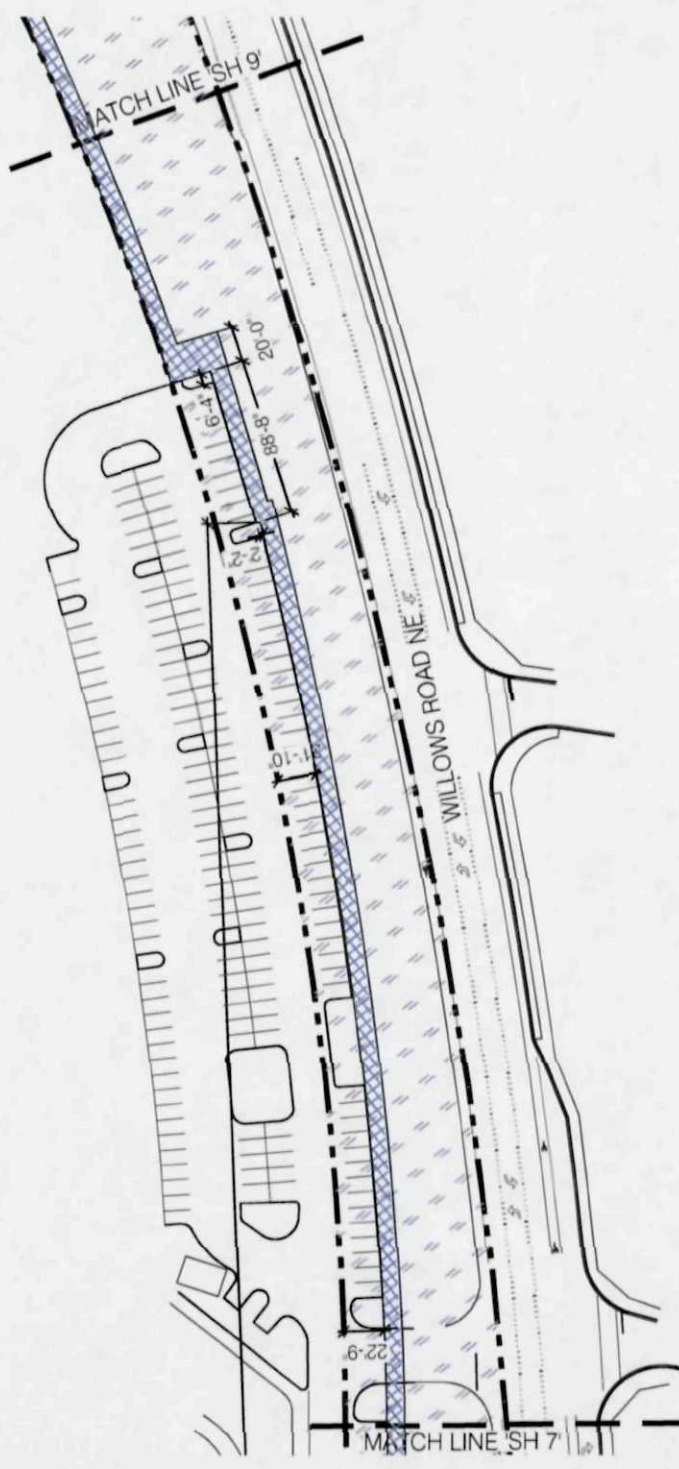


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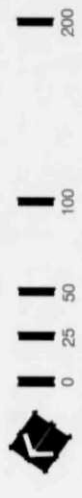


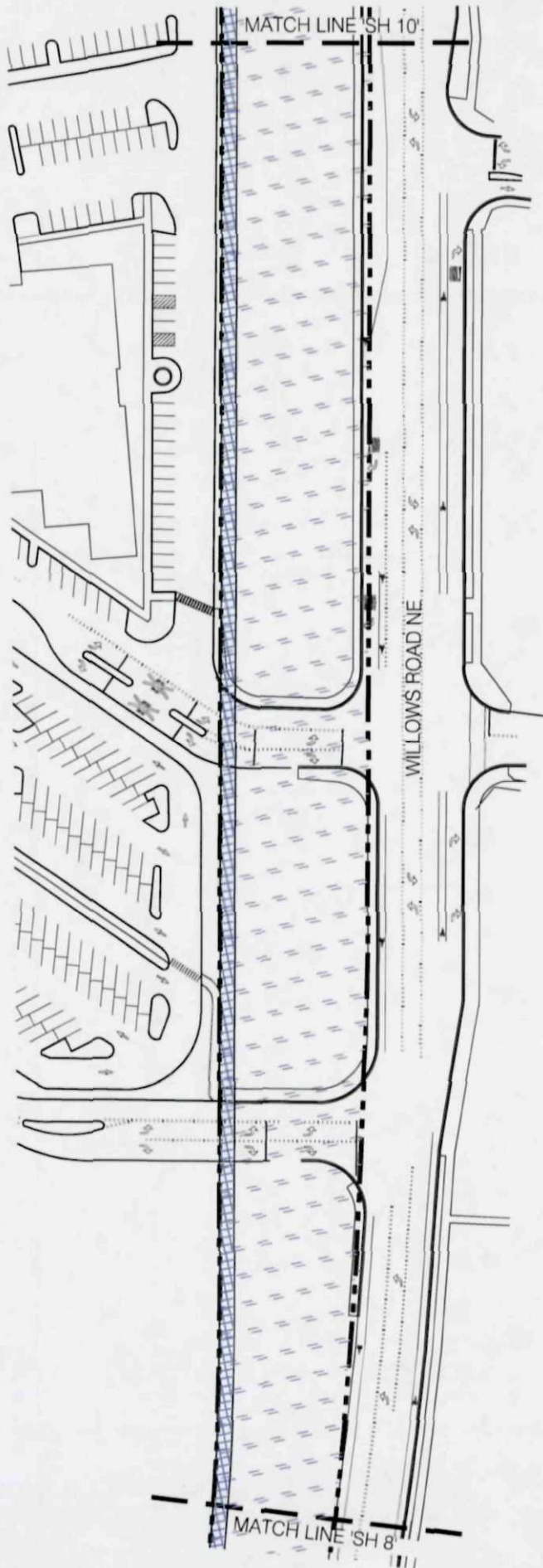


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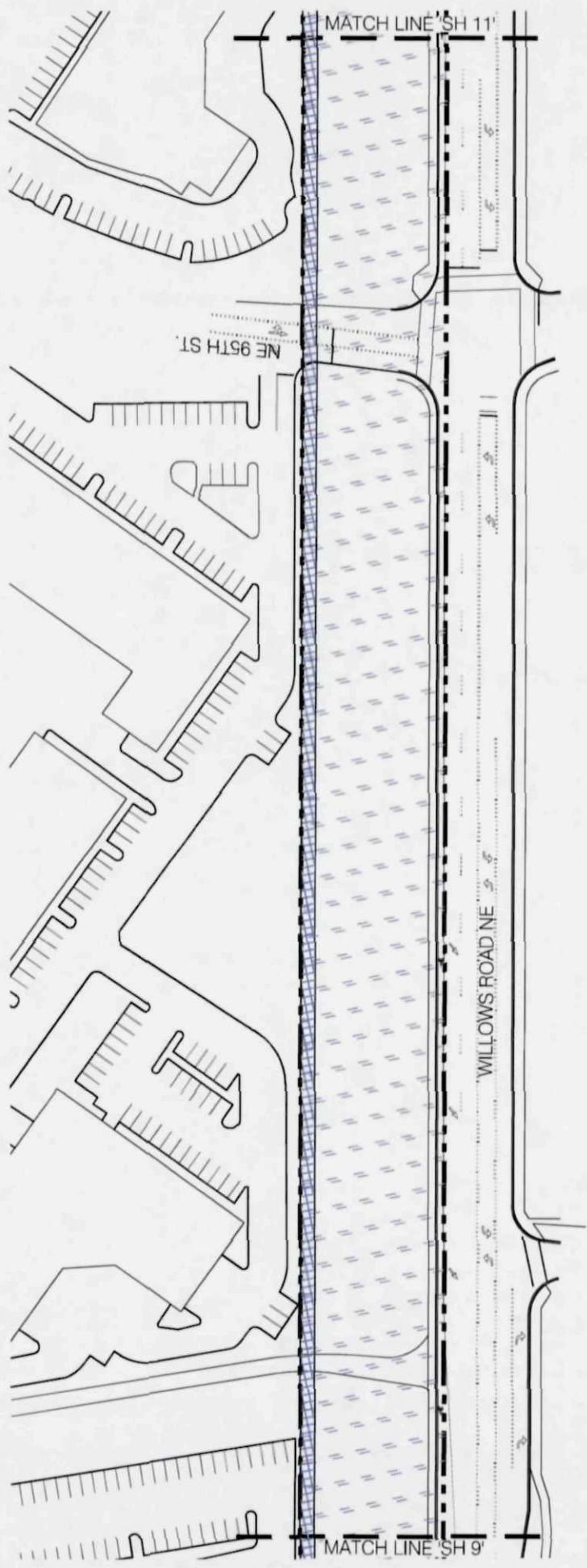


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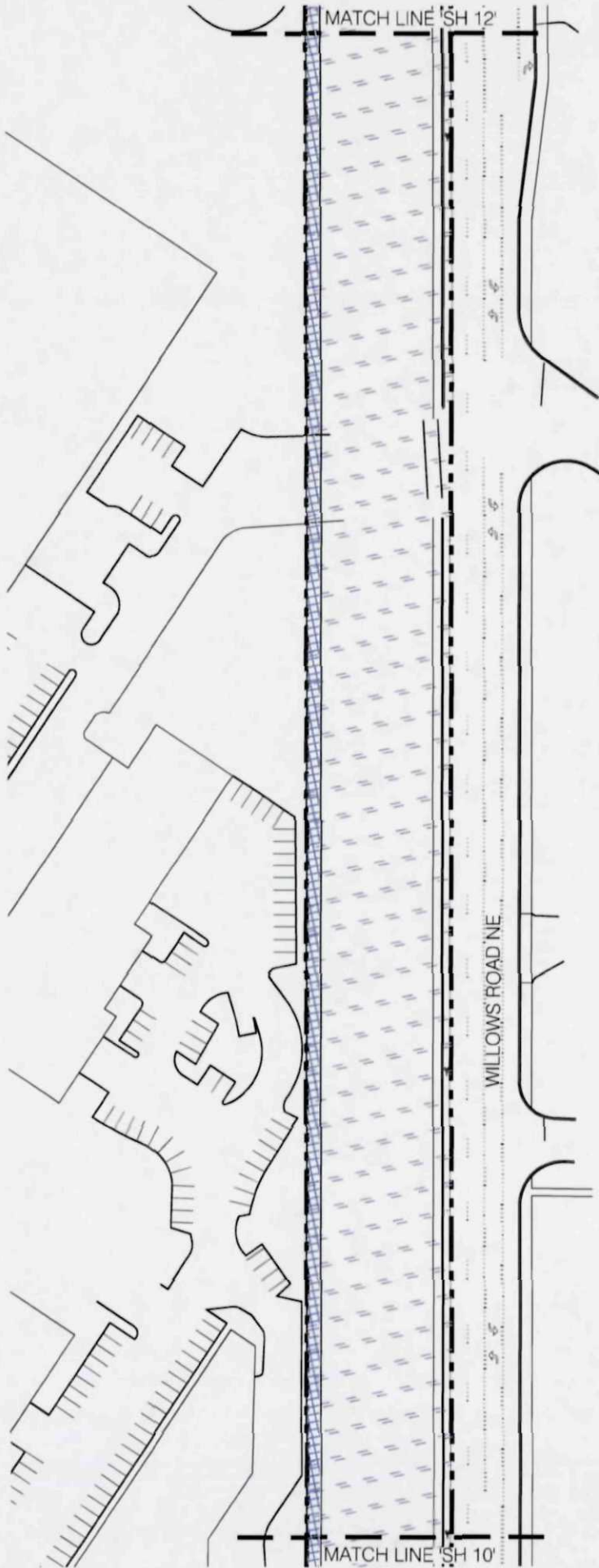
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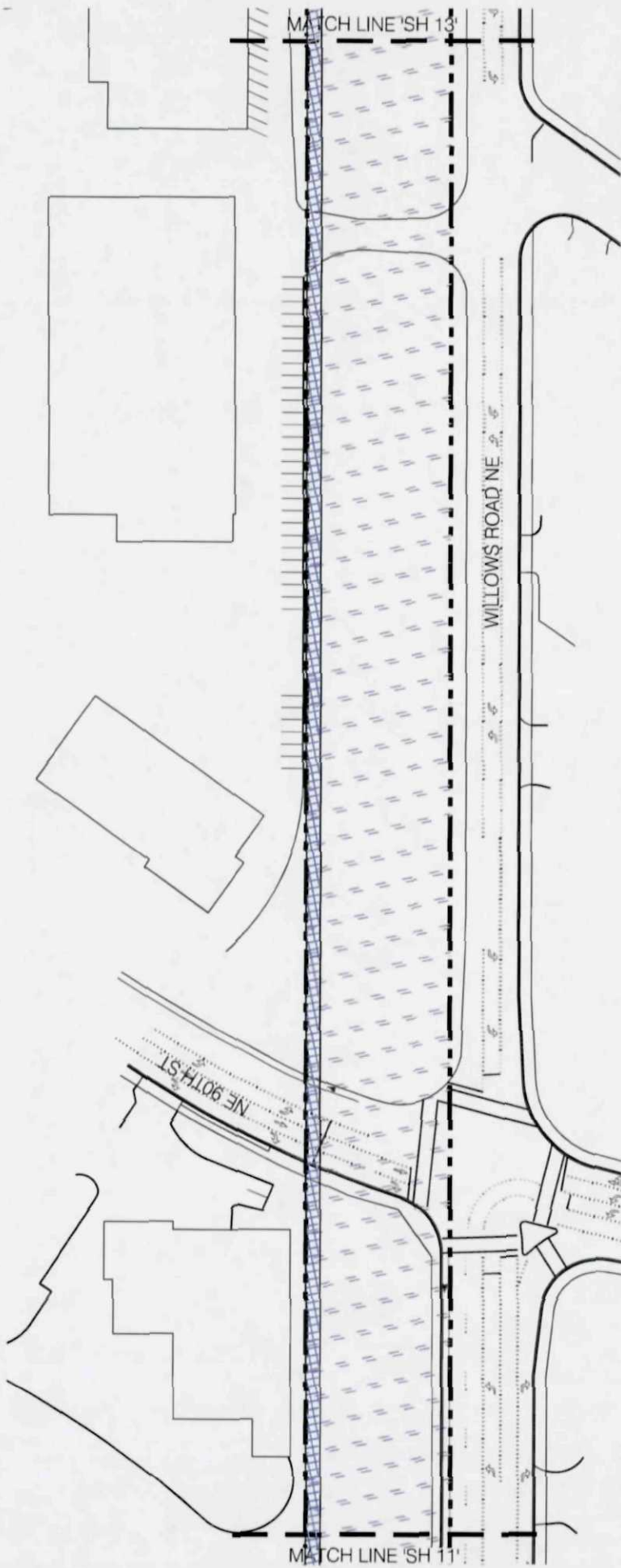


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 - King County Utility Easement
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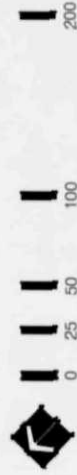
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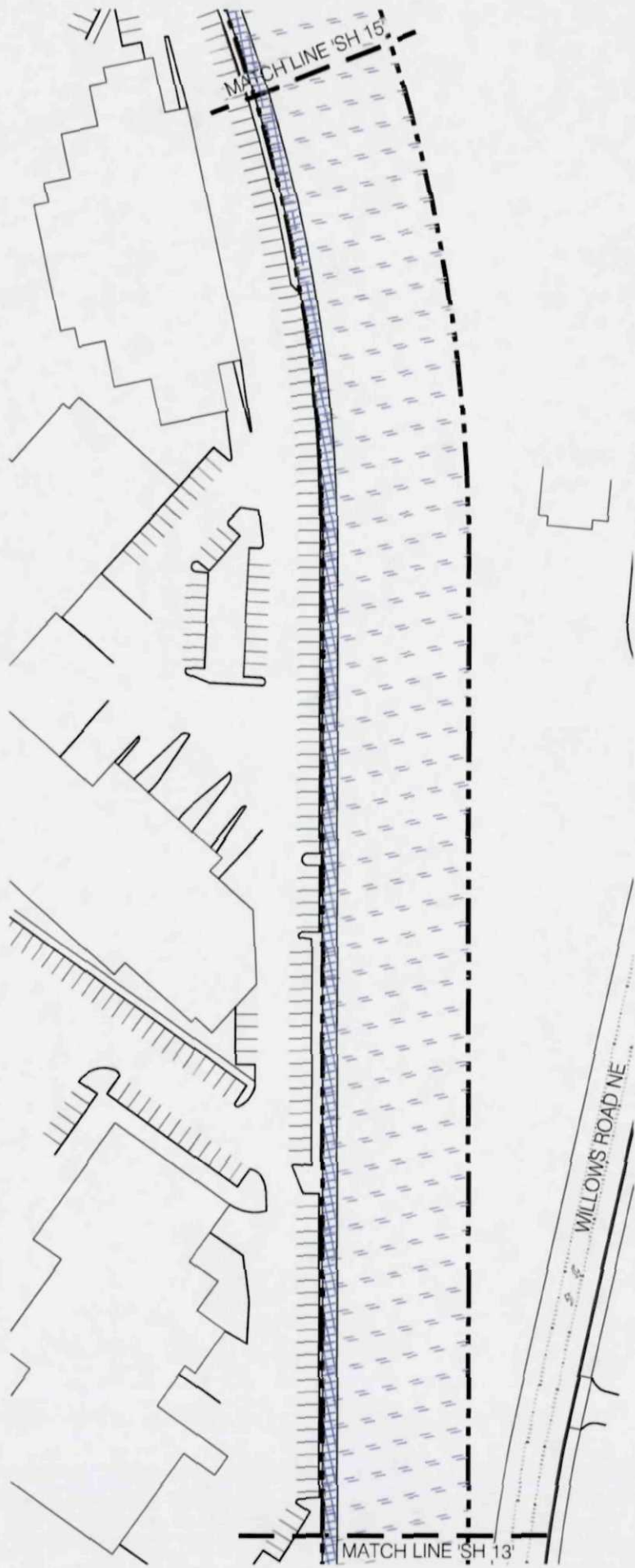
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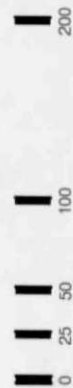


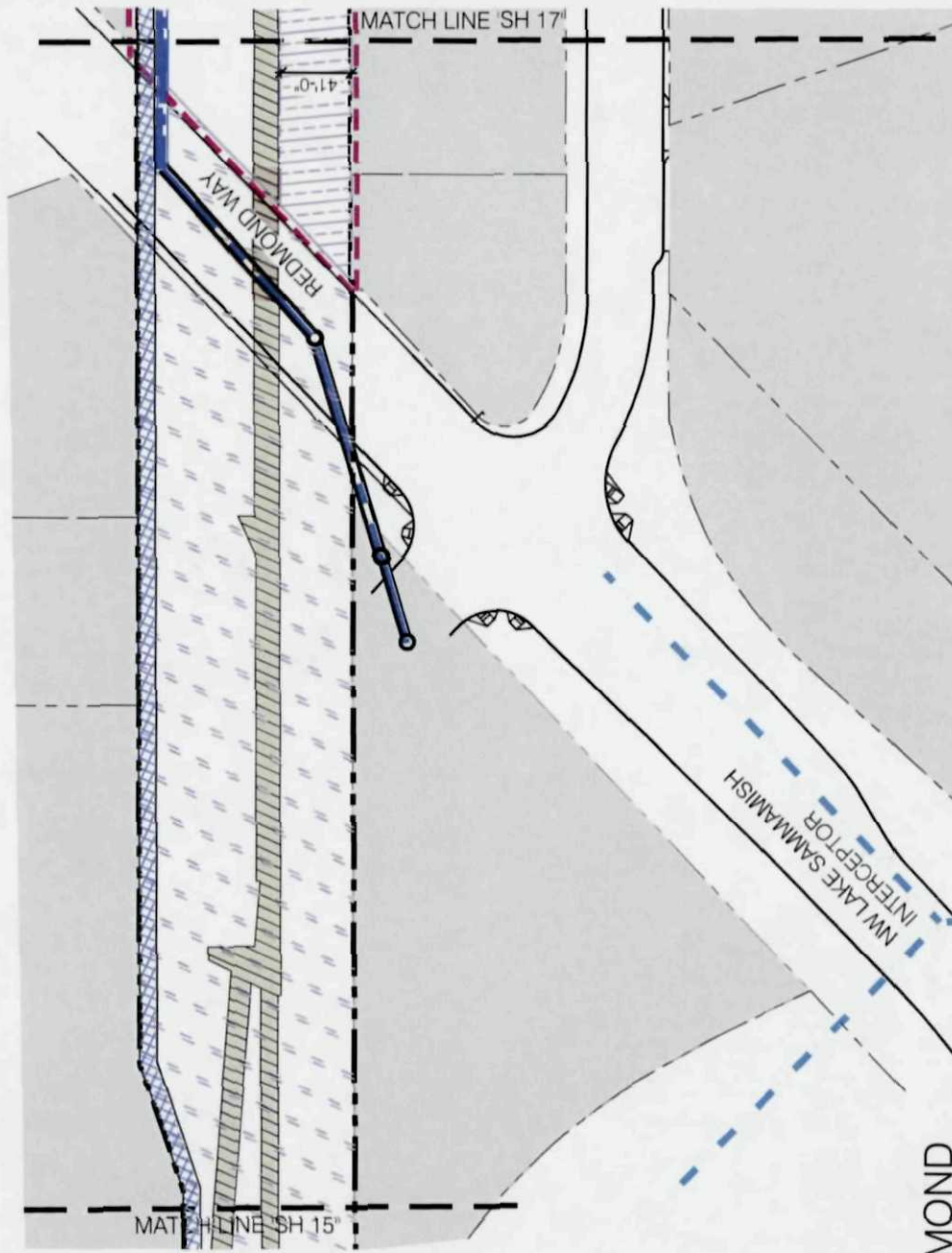


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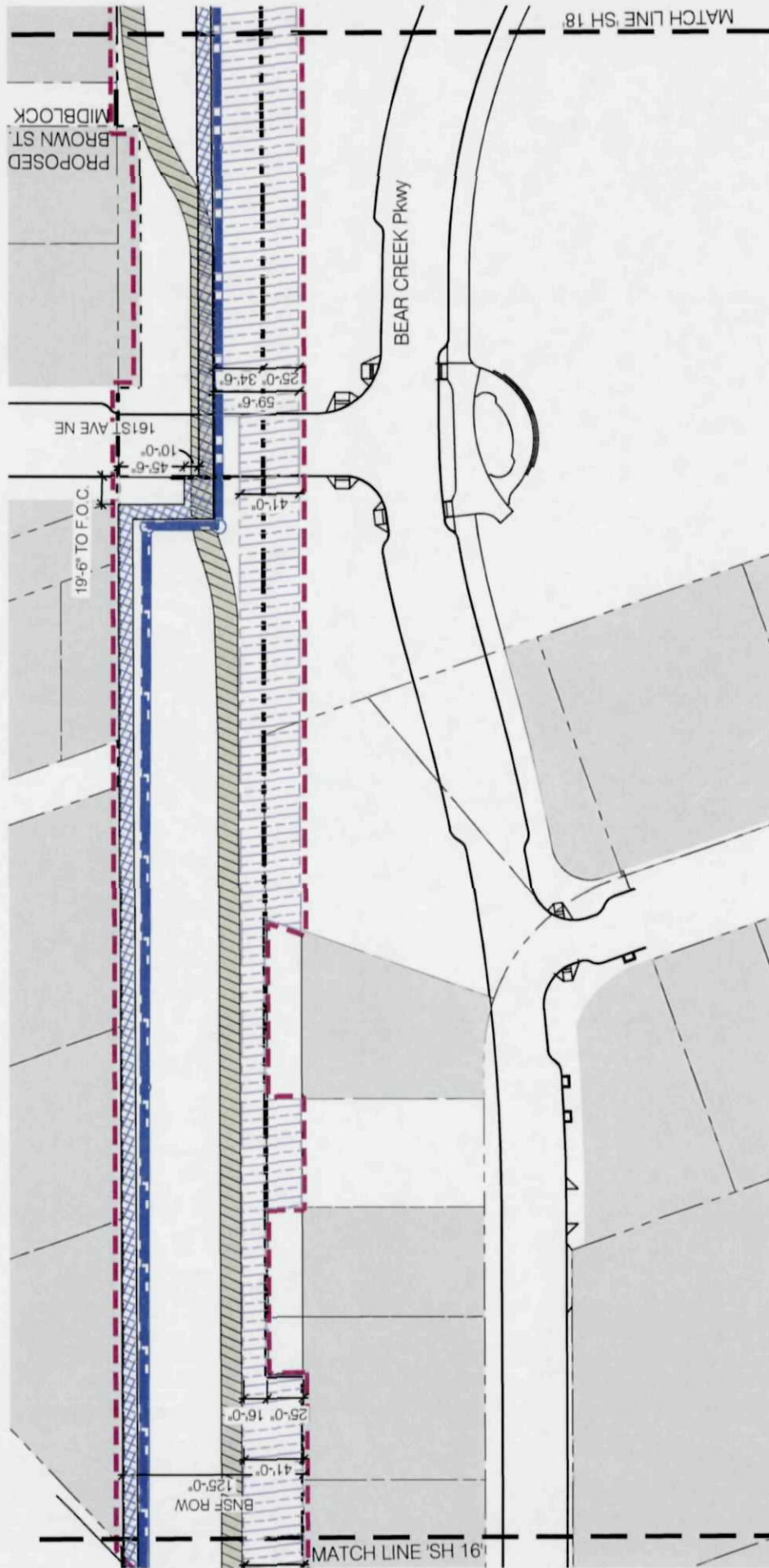
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LEGEND

- DOWNTOWN CITY SEGMENT
- PRIVATE PROPERTY
- REDMOND STORMWATER TRUNKLINE
- DOWNTOWN TRANSIT CORRIDOR
- PROPOSED 2025 TRAIL ALIGNMENT
- SOUND TRANSIT DOWNTOWN EASEMENT AREA
- SOUND TRANSIT NORTH CORRIDOR EASEMENT AREA
- EXISTING KING COUNTY WW FACILITIES
- KING COUNTY UTILITY EASEMENT
- SAMMAMISH RIVER



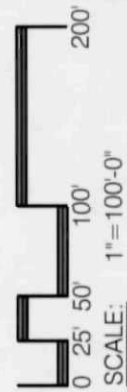


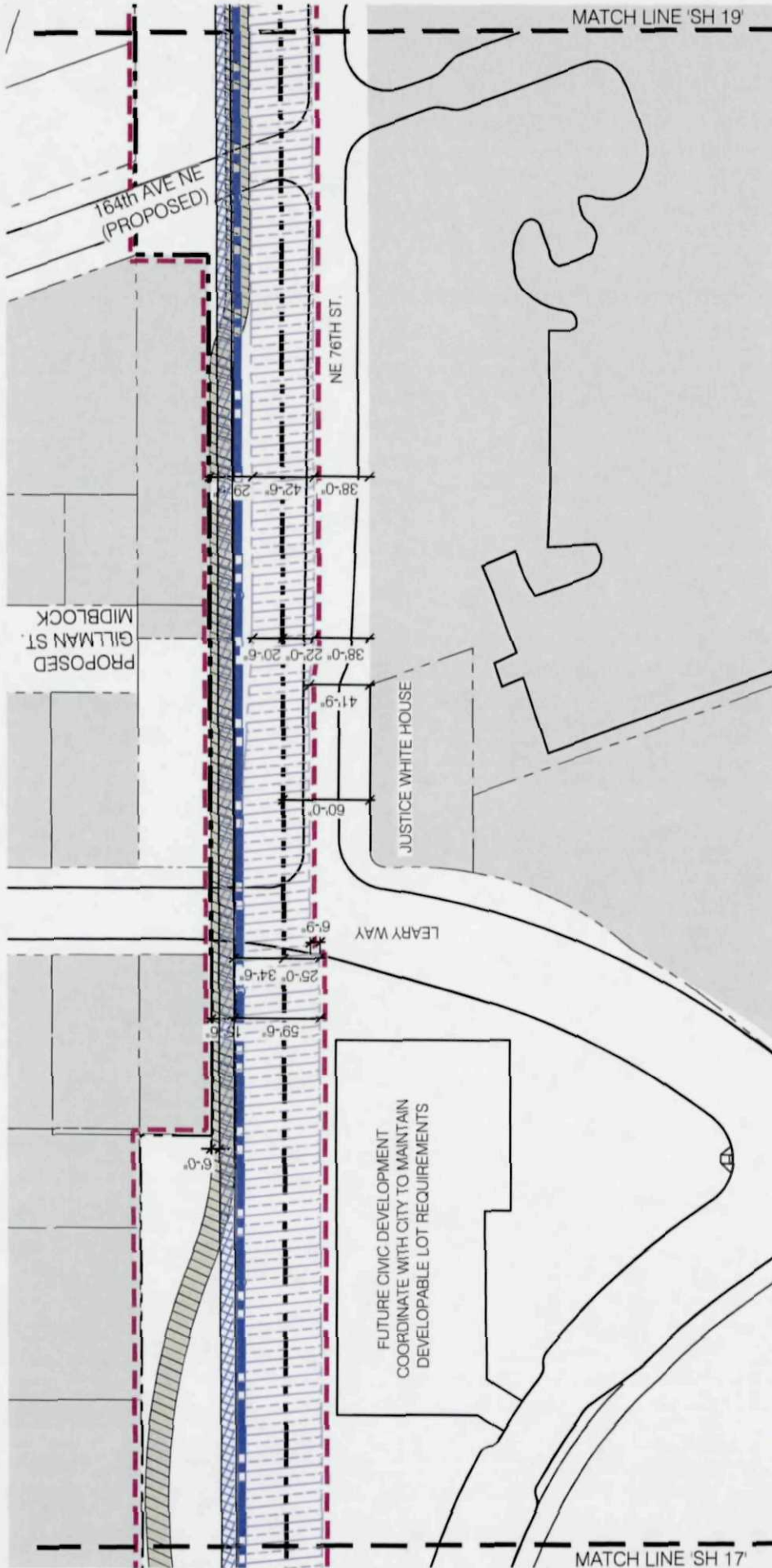
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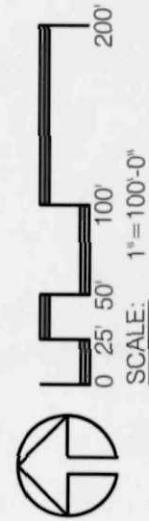


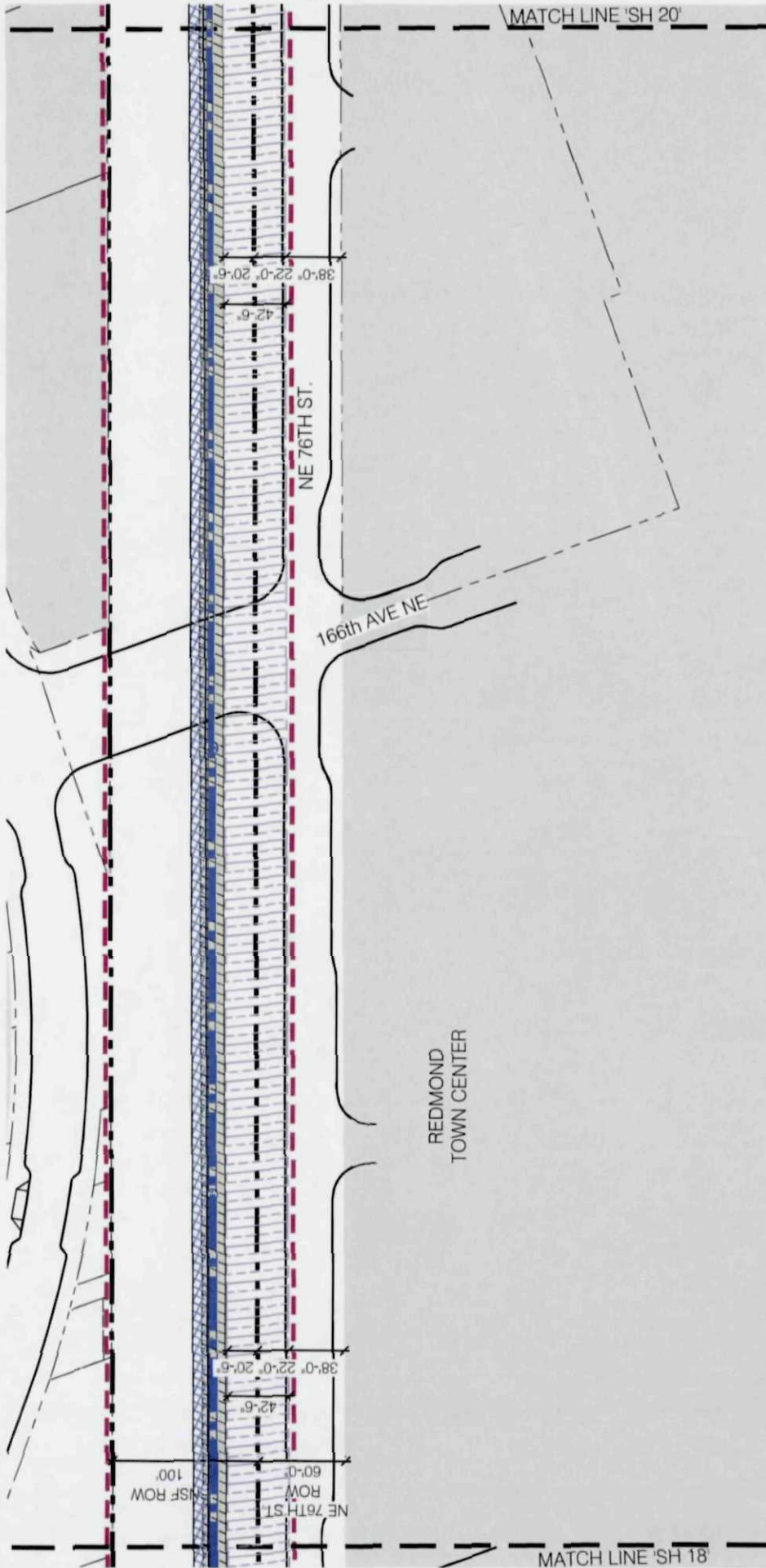


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 - KING COUNTY UTILITY EASEMENT
 - SAMMAMISH RIVER

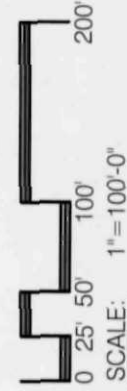


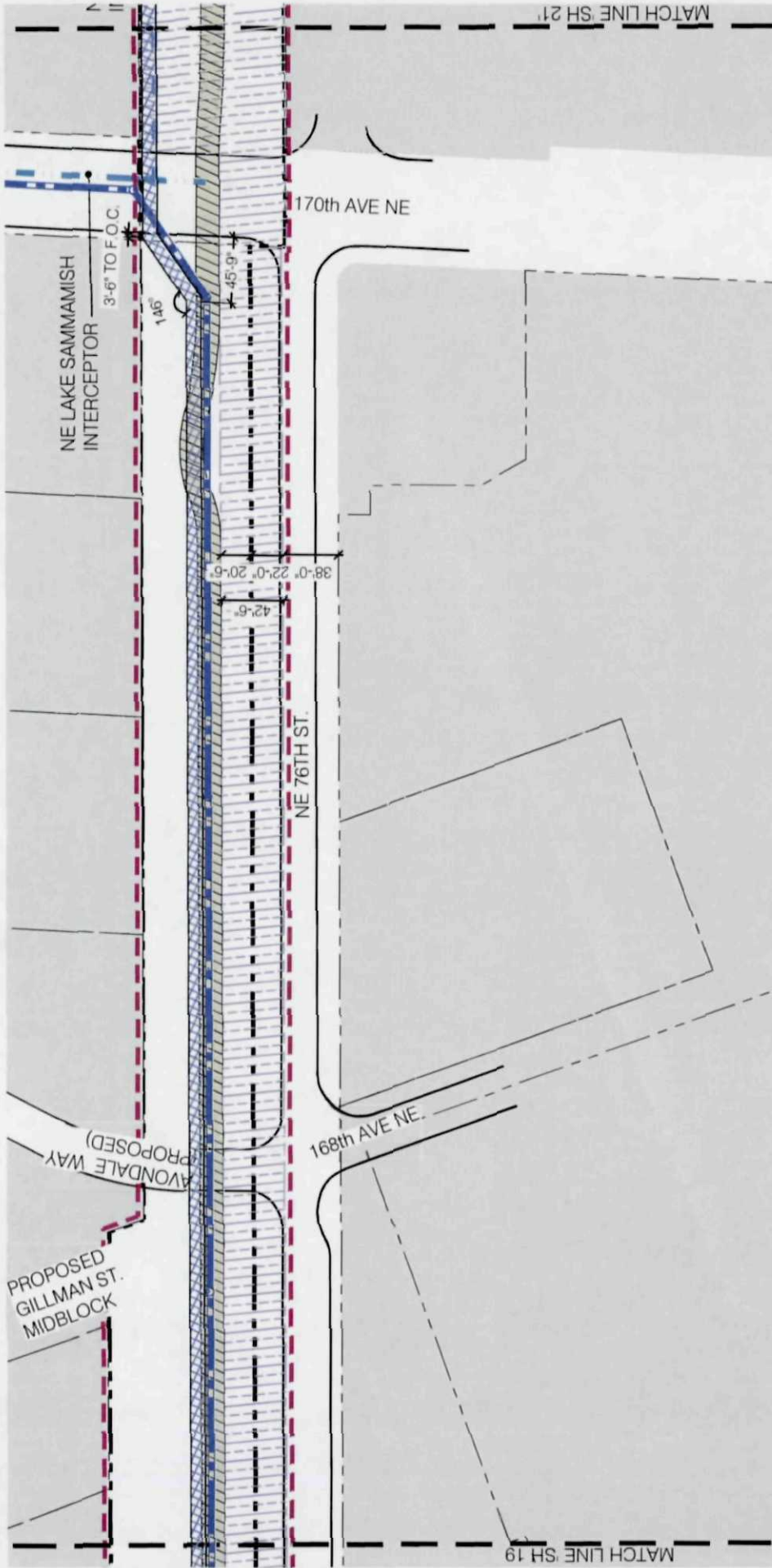


CITY OF REDMOND

EXHIBIT C - MAP OF DOWNTOWN CITY SEGMENT, DOWNTOWN TRANSIT CORRIDOR, CITY IMPROVEMENTS AND KING COUNTY EASEMENT AREA

- LEGEND**
- DOWNTOWN CITY SEGMENT
 - PRIVATE PROPERTY
 - REDMOND STORMWATER TRUNKLINE
 - DOWNTOWN TRANSIT CORRIDOR
 - PROPOSED 2025 TRAIL ALIGNMENT
 - SOUND TRANSIT DOWNTOWN EASEMENT AREA
 - SOUND TRANSIT NORTH CORRIDOR EASEMENT AREA
 - EXISTING KING COUNTY WW FACILITIES
 - KING COUNTY UTILITY EASEMENT
 - SAMMAMISH RIVER

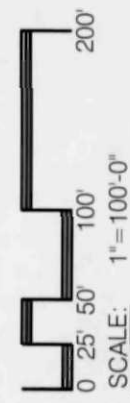


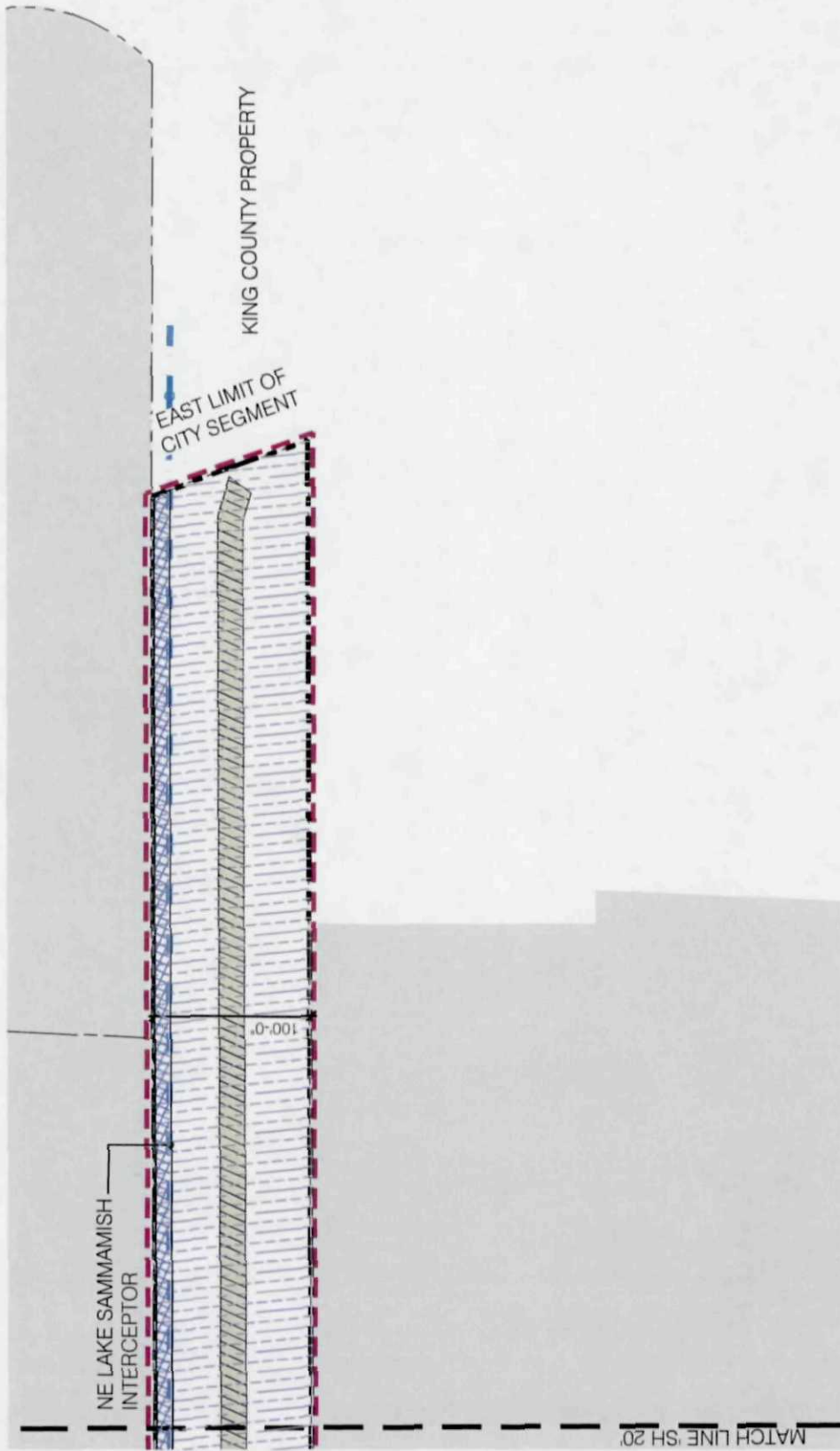


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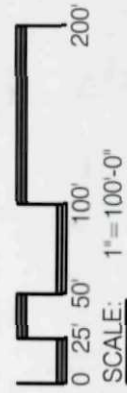




CITY OF REDMOND

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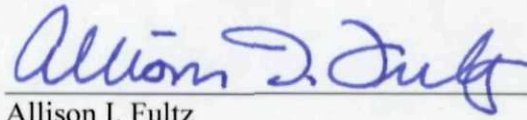
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Certificate of Service

I hereby certify that on this 2nd day of April, 2013, I caused to be served a copy of the foregoing Joint Request of the City of Redmond, Washington, and King County, Washington, to Substitute Interim Trail User to be served by first class mail, postage prepaid, upon:

Mr. David T. Rankin
BNSF Railway Co.
2500 Lou Menk Drive, AOB-3
Fort Worth, TX 76131



Allison I. Fultz